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UNITED STATES COURT OF APPEALS IN AND FOR THE
NINTH CIRCUIT

UNITED STATES OF AMERICA,

No. 13-30000

Plaintiff-Appellee,

vs.

MOTION FOR NEW COUNSEL
AND TO URGE BOTH
MOTIONS BE GRANTED

FRANCIS SCHAEFFER COX,

Defendant-Appellant.

COMES NOW Schaeffer Cox, Appellant-Defendant-Movant,
and in propria persona, respectfully moves this Honorable
Court to appoint NEW counsel as required by Title 18 USC §4247
and urges this Court to grant BOTH Motions for remand presently
before the Court.

I.

NEW COUNSEL IS REQUIRED

Title 18 USC §4247(d) provides that

"The person whose mental condition is the subject
of the hearing shall be represented by counsel and, if
he is financially unable to obtain adequate representa-
tion, counsel shall be appointed for him pursuant to
section 3006A [18 USC §3006A]."

In the present case Mr. Cox and his attorney Mrs. Elliott
hold conflicting positions.

MOTION FOR NEW COUNSEL AND
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1 Title 18 USC §3006A(c) provides that

2 "The court may, in the interests of justice,
3 substitute one appointed counsel for another at any
4 stage of the proceedings."

5 Mrs. Elliott has not reviewed the discovery in this case
6 or the investigative reports prepared by Mr. Rolly Port (PI for
7 defense team). Her position is based upon the evaluation made
8 by Dr. Robin Ladue. Dr. Ladue's evaluation stems from her
9 presumption that the events Mr. Cox described were too unimagin-
10 ably outrageous for the government to have engaged in, leading
11 her to conclude that Mr. Cox must be suffering from delusions.

12 The position of Dr. Ladue and subsequently of Mrs. Elliott
13 is not shared by Mr. John or Mr. Port who are more familiar
14 with the evidence and the facts of the case, having successfully
15 defended Mr. Cox from virtually identical charges in state court.
16 Mr. John was also co-counsel on the Federal case prior to trial.

17 At least at this juncture, Mr. Cox and Mrs. Elliott are
18 mortally conflicted, thus necessitating the appointment of
19 new counsel, which is hereby requested.

II.

THE COURT IS URGED TO GRANT BOTH MOTIONS

20 In spite of the fact that Mr. Cox and Mrs. Elliott hold
21 conflicting positions, their respective motions are actually quite
22 complementary.

23 Mr. Cox seeks an order compelling the government to comply
24 with their Brady-Kyles-Giglio obligations. Mrs. Elliott seeks

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1 to have Mr. Cox evaluated to determine if his claims are
2 delusional. One request necessitates the other.

3 Upon motion by the government, the District Court suppressed
4 recordings made by the FBI that supported Mr. Cox's claims that
5 he had been attacked by informant Bill Fulton for refusing to
6 plot a crime, that months later Mr. Fulton had given Mr. Cox a
7 death threat ultimatum, that Mr. Cox was leaving the country
8 with his wife and two young children as a result, and that they
9 had been stopped by informant J.R. Olson who used deception,
10 sabotage of vehicles, and threats of harm from others to hold
11 the Cox family in hiding in the upper room of a home in North
12 Pole, Alaska for a period of 21 days, thus preventing them from
13 carrying out their expressed plan of leaving in order to avoid
14 any sort of trouble and out of fear for their lives.

15 For a government attorney to, knowing full well that Mr.
16 Cox was telling the truth, suppress recordings corroborative
17 of such testimony, then, cloaking himself in the credibility of
18 the United States government, assure the jury that there is not
19 "one scintilla of evidence" to support Mr. Cox's claims and
20 that they were "spontaneous fabrications," is no different than
21 telling the jury there is blood on the pajamas when they know
22 it's paint. Not only does this run afoul of Miller v. Pate,
23 it demonstrates that the U.S. Attorney's Office is not acting
24 in good faith.

25 Given this prosecution team's history of misconduct in

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related cases, coupled with evidence that points to undisclosed exculpatory evidence and ongoing ethics violations, and in light of the government's unwillingness to acknowledge their wrongdoing, past or present, an order to compel production and a hearing are in order. Any delay will not prejudice either party and it would allow a fully developed record to be properly formed for this Court to review should the case come back up.

III. CONCLUSION

10 Conflicting positions between Mr. Cox and Mrs. Elliott
11 necessitate new counsel. Nonetheless, Mr. Cox's and Mrs. Elliott's
12 motions are complementary. If this Honorable Court grants one
13 it should GRANT BOTH and appoint new counsel for the subsequent
13 proceedings.

14 DATED this 22nd day of December, 2013.

Respectfully submitted,

~~Francis Schaeffer Cox, pro per~~
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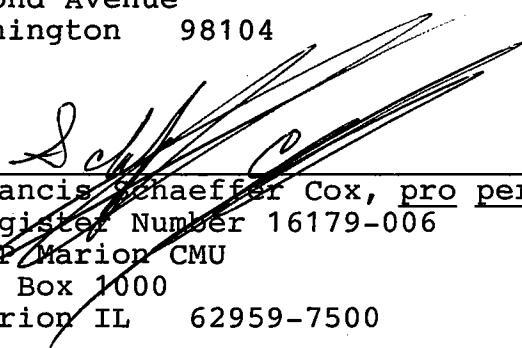
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1 CERTIFICATE OF SERVICE

2 I, FRANCIS SCHAEFFER COX, hereby certify that on December
3 24, 2013, served via First Class U.S. Mail, one copy of this
4 document in paper format to:

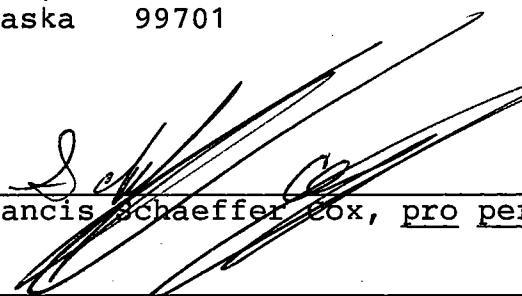
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21 I, FRANCIS SCHAEFFER COX, hereby certify that on December
22 27, 2013, served in person, one copy of this document in paper
23 format to:

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25 LAW OFFICE OF ROBERT JOHN
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